IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision 6322 of 2006

Date of decision: 28.11.2006

Kamaljit Singh and anr …Petitioners

Versus

Ajit Singh and ors …Respondents

Present: Mr Gagandeep Singh Sirphikhi, Advocate
for the petitioner.

S.S. SARON, J.

The plaintiffs-petitioners, aggrieved against the order dated 31.10.2006 passed by the learned Civil Judge (Jr Divn), Batala, have approached this Court under Article 227 of the Constitution of India.

Learned counsel for the petitioners contends that the documents Ex DA and Ex DB produced by the defendants were liable to be produced before the settlement of issues in terms of Order 8 Rule 1-A of the Code of Civil Procedure (CPC – for short) and the same were not liable to be admitted in evidence after the settlement of issues. It is further contended that sub-rule (3) of Rule 1-A to Order 8 CPC enjoins that a document which ought to be produced in Court by the defendants in terms of the said sub rule but is not so produced shall not, without leave of the Court, be received in evidence on his behalf at the hearing of the suit. Therefore, according the learned counsel, the documents having been filed after the settlement of issues were not liable to be received in evidence.

After giving my thoughtful consideration to the contentions of the learned counsel, I find no merit in the same.

A perusal of the impugned order dated 31.10.2006 (Annexure P3) would show that the documents Ex DA and Ex DB which are the certified copy of the order dated 21.5.2001 passed by the Commissioner, Jalandhar Division, Jalandhar and a copy of the charge sheet dated 21.9.2000 in case titled ***State v. Kamaljit Singh*** respectively were objected to on the ground of mode of proof. The objection was kept open to be decided at the time of arguments. It has been observed by the learned trial Court that there was no objection raised by the plaintiffs-petitioners with regard to late production of the said documents Ex DA and Ex DB. The learned counsel, however, has contended that the requirement of sub rule (3) of Rule 1-A to Order 8 CPC is that the document shall not, without leave of the Court, be received in evidence on his behalf at the hearing of the suit. Therefore, no leave having been taken, it is contended that the documents were not liable to be received in evidence. However, it may appropriately be noticed that the said rule is procedural in nature and rules of procedure, as is well-known, are handmaids of justice and their object is to secure justice and not to throttle it. Therefore, the objection with regard to late production of the documents Ex DA and Ex DB having not being taken by the plaintiffs-petitioners when the documents were tendered in evidence, cannot now be taken at a subsequent stage. Even otherwise, it is not shown as to whether any prejudice has been caused to the plaintiffs-petitioners for the late production of the documents.

The present is a petition under Article 227 of the Constitution of India where the jurisdiction of this Court is limited. The scope of jurisdiction of the High Court under Article 227 of the Constitution was

considered by the Hon'ble Supreme Court in ***Ouseph Mathai and others v. M. Abdul Khadir*** (2002) 1 SCC 319 wherein it was observed that mere wrong decision is not a ground for exercise of jurisdiction under Article 227. This Court may intervene only where it is established that the lower Court or tribunal has been guilty of grave dereliction of duty and flagrant abuse of power, which has resulted in grave injustice to any party. Besides, petitioner cannot invoke the jurisdiction of this Court under Article 227 as a matter of right and such a petition cannot be treated like an extension of a statutory appeal or revision. There is nothing on record, which would warrant interference with the impugned order in exercise of the supervisory jurisdiction of this Court under Article 227 of the Constitution of India. Keeping in view the aforesaid observations, the order passed by the learned trial Court is fully justified.

The civil revision petition is accordingly dismissed. However, nothing stated in this order shall be construed as acceptance of the admissibility of the documents on the ground of mode of proof which has been kept open to be decided at the time of arguments before the learned trial Court.

28.11.2006. (S.S.SARON)
ASR JUDGE